

Negotiating Political Agreements

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The recent gridlock in U.S. Congress may well be a metaphor for the erosion of cooperation in contemporary political life. We Americans often value cooperation at the community level, but our national public space is dominated by endless bickering and stalemate, and our national political institutions seem to betray our best intentions. Many other advanced, industrial democracies do a better job at locating pragmatic solutions to pressing policy problems through political negotiation, using the very norms of cooperation that we teach our children and often practice in our communities. These nations manage the tussles and traumas of politics with a level of grace, efficiency, and effectiveness that today seems absent from the American political process, and they avoid the extreme deadlock that often paralyzes contemporary American politics. The “high-noon” brinkmanship between our Democrats and Republicans is fundamentally at odds with the quieter mechanisms for policymaking in Northern Europe, and our politics of stalemate sharply contrasts with their politics of cooperation. One wonders, then, why America—one of the most economically and socially vibrant countries in the world—has become relatively impotent in the political realm.

This book explores the problems of political negotiation, by which we mean the political practice in which individuals—usually acting in institutions on behalf of others—make and respond to claims, arguments, and proposals with the aim of reaching mutually acceptable

binding agreements. We begin by considering the particular obstacles to political negotiation in the United States and the ways that Congress currently addresses these obstacles. Drawing from writings in experimental psychology, we identify forms of what we call *negotiation myopia*—that is, the mistakes made by the human brain in processing information and calculating collective political interests. We summarize how the institutions and procedural *rules of collective political engagement* help overcome negotiation myopia, and we highlight European and international examples of institutions that create dramatically different incentives for cooperation among political actors, interest groups, and citizens. We offer suggestions for how policymakers might overcome institutional constraints against negotiating agreement in politics.

In great part, the institutional obstacles to political negotiation in the United States are well known: a strong separation of powers between the presidency and Congress (with branches often controlled by different parties) and the structure of two-party competition (particularly when these parties are polarized and relatively equally matched) produce few incentives for political cooperation between the warring sides. By contrast, politicians in countries with multiple major parties must practice cross-party cooperation to gain and hold power, and the governments of those countries often have close linkages between the executive prime ministers and their legislative parliaments. Our two major parties in the United States have no such incentives. Win or lose is the name of the game, and constant conflict, changes in government, and frequent policy reversals make for an unstable policy and business climate.

U.S. institutions for organizing private interests do little to further successful political outcomes. For example, American firms are adept at demanding narrow regulatory concessions that pertain to their own industries, and Congress is bombarded with demands from every nook and cranny of the business community. Yet employers and unions have weak associations to help them meet collective political goals; consequently, they have difficulty expressing collective interests. They do not trust government, but they also cannot trust their collective selves.

It would be naive to think that all conflicts may be negotiated, and this is particularly true for the current American Congress (see chap-

ters 2 and 3). Legislators may derive greater benefits from blocking deals than from making a good-faith effort for mutual accommodation. In their reluctance to negotiate a mutually acceptable compromise, they may be driven by their well-heeled funders, by electoral and partisan priorities, or by deep ideological divisions. Even political agreement does not ensure democratic or just solutions to policy problems: deals may benefit those at the negotiation table but may adversely affect those whose interests are not represented (for example, the future generations, the marginally employed, and the nonvoters). When reformers confront parties that prioritize electoral gain above substantive solutions to economic and social problems, and deep-seated ideological divisions result in stalemate and blindness to the fortunes of future generations, then political struggle rather than negotiation may well be the better recourse for altering the status quo.

Yet, despite the institutional odds against it, political negotiation sometimes works in the United States and elsewhere. This book analyzes how these episodes of success may occur. These unexpected successes in political negotiation often happen when participants adopt the rules of collective political engagement that routinely enable higher levels of cooperation in other advanced democracies. For example, procedural arrangements that incorporate a formal role for *nonpartisan, technical expertise* in policy deliberations in advance of specific legislative proposals may facilitate a collective “meeting of the minds.” *Repeated interactions* among participants establish informal punishments for deception and bloated claims at the same time that those interactions nurture norms of trustworthy behavior. Dire consequences for inaction (or *penalty defaults*) help prevent stonewalling behavior. Allowing negotiations to take place in *private settings* encourages pondering rather than posturing.

We argue that adopting many of these rules of engagement may facilitate *deliberative negotiation*, in which participants search for fair compromises and often recognize the positive-sum possibilities that are otherwise frequently overwhelmed by zero-sum conflicts. Of course, deliberative negotiation is possible only in situations in which some potential common ground or zone of possible agreement exists and participants have a genuine desire to achieve a deal. But practices of deliberative negotiation have been central to American democracy since the construction of our nation. We think that it is time

to return to the basics. Thus, this book reviews the institutional disincentives for cooperation and rewards for conflict and also suggests best practices in the art of collective politics.

Negotiation Myopia

Individuals often fail to agree to resolutions that would leave everyone better off in part because the human brain falls prey to negotiation myopia, a constellation of cognitive, emotional, and strategic mistakes that stand in the way of achieving agreement and mutual gains. Two major forms of cognitive myopia—*fixed-pie bias* and *self-serving bias*—impede successful negotiation. A successful negotiation may either simply settle on some point in the zone of possible agreement among the parties or, more expansively, produce an agreement that captures all the joint gains that can be discovered or created in the situation. Fixed-pie bias prevents participants from seeing and exploiting all possible joint gains and sometimes prevents any agreement at all. Self-serving bias makes the parties to the negotiation overestimate their likelihood of winning, thereby standing in the way of actually making an agreement. Emotions also may block successful negotiation; the emotional barrier of anger particularly interferes with the production of collective agreement. In addition, myopia relevant to our sense of timing—such as uncertainty and difficulties considering second- and third-order effects—may distort or diminish our incentives for long-term thinking because few want to make short-term investments in exchange for risky, long-term rewards (Jacobs 2011, p. 52). Global warming is a classic example of time myopia: citizens are asked to make changes in their lives and automobile manufacturers are called on to invest in emissions-reducing technology that will have an impact on climate change twenty years hence.

Strategic hardball tactics also can stand in the way of concluding successful negotiations. Such tactics particularly come into play when parties seek to maximize personal interests over broader, collective ones or to use blocking mechanisms for political advantage. As the chapter on the causes and consequences of polarization in the United States explains, such tactics bring the most benefits when the parties in Congress are almost equally matched: if the minority party can possibly gain the majority in the next Congress, it has strong political

motivations to prevent policy successes that will result in electoral advantages for the current majority party. In any negotiation, participants may rationally reject a resolution that benefits them in the short run if they believe that forgoing immediate gains will set them up for an even bigger future victory. This is no less true of Congress. At a significant point in the Clinton-era negotiation over health reform, for example, Republican strategists determined that their best chances for a surge in public support at the next election lay in simply killing the Clinton health-reform bill. Thus, they urged legislators to reject any alternative bipartisan measure. The tactic was highly successful in the short run. Along with many other developments, however, it helped poison future relationships, undermining the potential for long-run joint gains.

Deliberative Negotiation

Under certain conditions, negotiation myopia may be overcome with institutional rules of collective engagement that enable deliberative negotiation, by allowing participants to rise above their internecine squabbles and focus on value-creating accords. By *deliberative negotiation*, we mean negotiation characterized by mutual justification, respect, and the search for fair terms of interaction and outcomes. This kind of negotiation lies between pure deliberation, in which the parties develop a collective understanding of the problems confronting them and seek to articulate a common good, and pure bargaining. It may include fully integrative negotiation, partially integrative negotiation, and fair compromises.

In *fully integrative negotiation*, the parties find a creative way to approach the problem that provides both with what they actually want and neither party loses. More often, in what we call *partially integrative negotiation*, the parties find or bring in a host of issues on which they place different priorities so that they can trade on those items that are high priority for one and low priority for the other. As Binder and Lee point out in chapter 3 on deal making in Congress, this kind of negotiation is more possible in Congress than in the commercial or legal world because Congress will usually be looking to resolve numerous issues at any one time. Linking those issues in a productive way is thus easier than when complementary issues must

be sought out and actively brought into the discussion. Finally, deliberative negotiation includes the search for *fair compromises*. As with the search for integrative solutions, such a search is best conducted by members who know and respect one another and who appreciate as well the different and often conflicting interests that each represents.

Integrative, partially integrative, and fair compromise negotiations differ from pure-bargaining situations in which opponents strive to obtain the maximum number of concessions from one another. In pure bargains, the parties make distributive, zero-sum exchanges with particularistic payoffs, aiming solely for the greatest strategic advantage.

The issues of justice and the long term are also more relevant in deliberative negotiation. In a just deliberative negotiation, the parties at the table strive to incorporate as much as possible the interests of those not represented, including future generations. From a practical perspective, deliberative negotiations are also more likely to consider the longer-term ramifications of the agreements reached.

Rules of Collective Political Engagement and Conditions for Deliberative Negotiation

Lessons from the practice of political negotiation reveal some of the conditions under which negotiation myopia may be overcome and “pie-expanding” deals with joint gains may be obtained. We suggest that bargaining processes—whether in the sphere of private conflict resolution or national policymaking—are structured by *rules of collective political engagement*. These rules of the game stipulate specific procedural arrangements that set the terms of negotiation and define acceptable sources of information, patterns of interaction among participants, consequences for inaction, and autonomy of the bargaining partners. Choices of these specific procedural arrangements influence individuals’ conceptualizations of problems, their emotions about cooperation, and their incentives to take action. When a zone of potential agreement exists, the adoption of specific rules for collective engagement may overcome the various forms of negotiation myopia—and even shape the conditions for integrative negotiation.

First, participants must agree to acceptable sources of information. In some cases, the various sides rely on their own partisan facts; however, in other cases, the negotiation setting builds in an explicit role

for *nonpartisan third parties* or *technical expertise*. These external experts may help participants overcome the forms of myopia related to perspective taking and incomplete information, mitigate self-serving biases in the perception of facts, foster a shared understanding of policy problems in more neutral terms, build shared conceptions of justice, diminish ideological left-right cleavages, and enable creative “cognitive leaps.” Countries have different rules about acceptable sources of information relevant to national political accords: these characteristic “knowledge regimes” and modes of discourse shape their production of policy ideas (Blyth 2002; Campbell and Pedersen 2014; Schmidt 2002). Some nations and international governing bodies use fact-finding bodies, peer review, and performance benchmarking against agreed indicators; these tools can help define problems and solutions in relatively neutral, mutually acceptable terms. Nonpartisan fact-finding bodies help correct self-serving biases in the facts, act as interpreters of truth, and contribute to all parties developing common conceptions of justice (Sabel and Zeitlin 2010). All these features enhance the opportunities for deliberative negotiation.

Second, a bargaining situation includes implicit decisions about patterns of interaction among participants; in particular, the decision to incorporate *repeated interactions* among parties may help overcome myopia-inducing short-term and zero-sum calculations. The fear of each party that others will not cooperate (for example, in the prisoner’s dilemma game) creates incentives for short-term, self-interested choices. Bringing participants together in repeated engagements facilitates future punishments for uncooperative behavior and, consequently, fosters trust and commitment. It also cultivates shared perceptions of both the facts and the bargaining dynamics of the situation (Axelrod 1997; Hardin 1982; North 1990; Olson 1965). Particularly when negotiators are engaged in long-standing processes of cooperation, repeated interactions help them take the longer view and grasp one another’s perspectives. Recognizing that repeated interaction in the legislative realm often requires long incumbencies, chapter 5, on deliberative negotiation, specifies criteria for judging when relatively uncontested elections in any district might represent the will of the voters and when this might reflect failures in democracy.

Third, decisions must be made about the consequences for non-action in a negotiation process. Setting *penalty defaults* may move

negotiators toward action, overcome blocking coalitions, and improve the chances for agreement (Ayres and Gertner 1989; Carpenter 2001; Sabel and Zeitlin 2010; Weaver 1987). By setting a penalty default, we mean creating a situation such that if the negotiating parties do not come to agreement by a certain time, a penalty that all parties want to avoid will become the default. In some cases, of course, procedural rules stipulating deadlines, exclusion from the table, and other action-forcing rules may simply overcome stalemate without moving participants toward pie-expanding deals. If judges are setting the penalty defaults, the accompanying expansion of judicial oversight may trespass on the legitimate policymaking prerogatives of democratic legislature (Ferejohn 2002). These are important trade-offs to consider. When courts threaten a penalty default if the negotiating parties do not agree on an alternative, the courts may be able to craft a default that promotes the broader public interest. The Los Angeles groundwater basin negotiations that provided the foundations for Elinor Ostrom's (1990) "bottom-up" theory of governing the commons were held under the California Supreme Court's threat of a penalty default. We call such a judicial move, or legislative moves in the same direction, the imposition of a *public-interest penalty default*.

Finally, decisions must be made about the degree of autonomy and privacy accorded to negotiators. In general, privacy boosts negotiators' capacities to bargain effectively by producing some autonomy from influences that try to shift the focus away from the core objects of negotiation or that insist on hard-line positions opposed to compromise. Chapter 5, on deliberative negotiation, points out that legislative transcripts have revealed more expressions of mutual understanding in closed-door versus public legislative settings. The chapter takes up the normative trade-offs associated with privacy and specifies criteria for judging when the closed-door interactions required for effective negotiation might be most democratically acceptable.

Institutions and Rules for Collective Political Engagement: The Cross-National Perspective

Rules of collective political engagement are embedded in governing institutions and structure the deliberative practices and patterns of

democratic struggle that contribute to diverse policy outcomes. Advanced postindustrial democracies face broadly similar challenges yet demonstrate different responses to exogenous threats. In some countries, the rules of engagement embedded in governmental institutions, as well as in the more transitory procedural arrangements in specific policy areas, help overcome negotiation myopia and facilitate deliberative negotiation. Moreover, because these rules of collective political engagement have an impact on actors' strategic calculations of preference, they also influence the types of coalitions available to policy reform and the strategies for political struggle. In these countries, the strategic and psychological impacts of the governing institutions and their embedded rules of collective engagement may facilitate the development of social and economic reforms that benefit a broad cross section of interests. Other countries, such as the United States, have institutions that tend to produce distributive bargaining with zero-sum and short-term gains or even stalemate and inaction. The United States is in such a situation today. This section considers the institutions and rules of engagement that give some countries both the *need* for more encompassing political pacts and the *capacities* to produce them.

Before considering how rules of engagement may aid in negotiation, we note that not all political systems require negotiation. In the much-celebrated Westminster model—a parliamentary system with two-party competition and majoritarian rule—the ruling party (arguably representing a majority of the people) may legitimately claim a mandate to impose the will of the people without having to negotiate with the minority (Cox and McCubbins 1997; Linz 1990; Shugart and Carey 1992). Because the majority party simply implements its platform in Westminster model countries, extensive negotiation is unnecessary.

A presidential system, such as that in the United States, that separately elects two legislative houses and a president makes simple majoritarian rule more difficult to achieve. The separation of powers between Congress and the presidency creates greater hurdles to achieving political deals than a parliamentary system does. The independent election of both houses of the legislature and the executive decreases the chance that the same political party will control all branches; distributing responsibilities for policymaking between separately elected branches gives politicians in the two branches the means to

wage institutional warfare on one another. The institutional warfare found in a presidential system may result in gridlock, dual government policies, and unilateral action. President Nixon engaged in this kind of institutional warfare when he tried to impound duly appropriated funding for certain social welfare programs, and the Reagan administration tangled in this way with the Democratic-controlled House when the two branches formulated separate foreign policies on Nicaragua (Cox and McCubbins 1997; Ginsberg and Shefter 2002; Kiewiet and McCubbins 1991). In short, except in extraordinary circumstances in which the same political party has control of the presidency, the Senate, and the House, the separation of powers in the U.S. system usually requires negotiation.

The Westminster model of majoritarian rule is also not an option for most European countries, and these “consensus-model” nations require significant multiparty negotiation to form governments and to develop policy reforms (Lijphart 2012). Most of these countries encounter crucial obstacles to the imposition of majoritarian rule because they have proportional-representation electoral rules, which allocate legislative seats to parties according to their share of the vote. Multiple parties vie for power and a single party seldom captures government; therefore, coalition governments are the norm. Politicians must engage in substantial negotiation simply to win political power, and ministries are often controlled by separate parties. Opposing parties may call for a vote of no confidence and bring down the government at any time.

Confronted with multiple interests vying for power, the consensus-model countries have developed a governing style that embraces political negotiation rather than simple majority rule. Political leaders seek to bring as many factions as possible into the governing coalition in order to retain power; even when governments fall, their successors are likely to include parties from the former regime. The potential weaknesses of these governments contribute to their ultimate strengths because the brokered deals in multiparty systems—although perhaps more time-consuming to create—are more stable than those in two-party systems, in which the ruling party may be voted out of office in the next election and the incoming party may dramatically change the policy (Downs [1957] 2001).

With power distributed across competing parties, one wonders how these countries have managed to produce a consensus governing style

for negotiating political agreement. We suggest that many of these multiparty countries have the capacities as well as the need for consensual governing because their institutions incorporate rules of collective engagement that help overcome negotiation myopia and facilitate deliberative negotiation. This facilitation appears most vividly in the core institutions that structure citizens' interactions with their political leaders—that is, the party systems and the organizations for the representation of major economic interests.

First, proportional representation party (PR) systems, compared with majoritarian systems, enhance capacities for deliberative negotiation by incorporating rules of collective engagement that overcome many forms of negotiation myopia. Proportional parties represent distinctive groups of voters, endorse well-defined policy programs, and appeal to constituents on the basis of these ideological platforms. Therefore they are typically less likely to compete for the median voter than parties in majoritarian systems. In contrast, U.S. parties were characterized historically as “patronage parties,” meaning that politicians appealed to constituents with material benefits rather than ideas (Burnham 1970; Cusack, Iversen, and Soskice 2007; Kitschelt 1999).

In contrast to the majoritarian patronage parties found in the United States, proportional parties are more likely to nurture *technical expertise* in their units for policy development because they make appeals to voters based on their policy programs. But because these democracies require high levels of multipartisan cooperation, they have developed a technique to smooth over partisan divisions by using nonpartisan commissions to develop ideological consensus on key policy issues. Representatives of proportional parties are also more likely than those of majoritarian parties to engage in repeated interactions with one another because, in proportional multiparty systems (with rare majority rule), the parties must cooperate to form a governing coalition and to enact legislation.

Second, institutions for organizing core economic interests are much stronger in countries that require a consensual governing style—a distinction that is captured by the concepts of “pluralism” and “corporatism.” Majoritarian countries usually develop pluralist systems of interest representation that do not restrict the number of representative interest groups and that have no singular representative of business. These pluralist groups engage in policymaking solely

through their lobbying of individual legislators. In sharp contrast, countries with a consensual governing style have evolved corporatist systems of industrial relations, in which nonoverlapping, functionally differentiated organizations represent the main economic actors. Thus, a company would be represented politically and in collective-bargaining channels by an industry association, and industry groups would be organized into an encompassing “umbrella” organization with special privileges to represent broad business interests. The groups representing business would formally negotiate with the parallel associations representing labor to make public policy so that much of what is done by politicians in the United States is done by organized private sector actors. Business and labor formulate policy regulations through collective bargains that extend across the economy and through tripartite commissions (composed of business, labor, and government representatives) convened under the auspices of government ministries.

As with proportional party systems, corporatist industrial relations systems incorporate rules to overcome negotiation myopia. These institutions rely on a formal role for technical expertise because the forums that bring business, labor, and the state together to consider policy problems develop such expertise and nurture shared understandings of problems and solutions. Repeated interactions are an important feature of both collective-bargaining processes and participation in the tripartite commissions, and they help build trust among the social partners. In macro-corporatist industrial relations channels, a *public-interest penalty default* appears in the state’s threat to intervene if the social partners do not reach agreement (Anthonsen and Lindvall 2009; Hicks and Kenworthy 1998; Martin 2000; Martin and Swank 2004, 2012; Rothstein 1996; Streeck 1992; Trampusch 2007; Visser and Hemerijck 1997).

The impacts of rules of collective engagement embedded in governing institutions have effects not only on negotiation myopia; they also have significant effects on strategic calculations of interests, possibilities for coalition building, and patterns of democratic struggle. For example, the German industrial relations system incorporates extensive repeated interactions among business and labor representatives in industry-level collective bargaining, and this produces mutually beneficial deals for their employers and workers. But compared

with the Nordic countries, there are fewer opportunities in Germany for peak associations representing the social partners to participate in policymaking forums at the national level (for example, in commissions with nonpartisan technical experts and tripartite commissions under the auspices of ministries). This reduces the scope of repeated interactions and reliance on shared expertise in Germany and changes the nature of the consequent deals. Whereas Scandinavian countries tend to produce broadly solidaristic public policies that address the interests of the long-term unemployed and marginal workers, Germany often produces “dualist” policies that benefit core employers and workers but do little for labor-market outsiders (Martin and Swank 2012). Moreover, in the German system of subsidiarity, in which policymaking is expected to be conducted at the lowest level possible, the national state cannot easily threaten penalty defaults. In Scandinavia, by contrast, threats of state intervention provide significant incentives for the macro-corporate bodies to take policy action.

The different institutions and rules of collective political engagement also provide the building blocks for diverse varieties of capitalism (Hall and Soskice 2001). In coordinated market economies, institutions and rules are conducive to inclusive negotiations by relying on technical expertise, repeated interactions, and penalty defaults to move negotiators toward consensual outcomes. These processes constitute the cell structure of cooperation in industrial relations forums, vocational training programs, proportional party negotiations, and other important domains. Alternatively, liberal market economies have fewer opportunities for repeated engagement among organized representatives of business and labor, because anonymous markets facilitate economic exchange. Penalty defaults also become less necessary when the “invisible hand” is expected to provide market discipline. In addition, liberal political philosophy tends to minimize the use of technical expertise in decisionmaking processes, by delegating most policymaking to the political legislative realm as well as expecting the pluralist aggregation of self-interests to add up to a collective interest.

For these reasons, the choice of a specific set of rules of collective political engagement has facilitated deliberative negotiation within the consensus-model countries. The result is many policy successes, often

with restrained political conflict. The crucial role for nonpartisan technical expertise is illustrated by the use of royal commissions in Sweden, such as the expert task force on climate change in the 1970s, which set the stage for early clean-air legislation. Although the resulting Swedish legislation was less extensive than the parallel legislation in the United States, its impact was far more substantial because the legitimacy established through the expert investigation made for easy implementation and extensive compliance (Lundqvist 1980). Denmark used repeated interactions in private meetings to develop sweeping active-labor-market reforms that were then ratified wholesale by the parliament. The Labor Market Commission (or the Zeuthen Udvalg) convened representatives from the major labor-market associations, parties, and ministries to propose solutions for extensive long-term unemployment. The resulting proposal drew inspiration from ideas on both the right and the left, thereby combining extensive investments in training with more restricted access to passive social assistance (Martin and Swank 2004, 2012).

In contrast, the United States relies far less on the rules of engagement that foster deliberative negotiation. Americans rely less frequently on panels of technical experts, such as government-sponsored bipartisan task forces, to study policy problems in advance of the legislative cycle and to slowly build shared perceptions of social and economic challenges. Instead, legislators derive much of their information from partisan think tanks. In recent years, political parties have developed dueling facts and contested narratives about policy problems, and they are quick to challenge one another's motives and data. This divergence in accepted truths has given rise to websites such as FactCheck.org, which reported in 2012: "A fog of misinformation has settled on the fiscal cliff, as both House Speaker John Boehner and Treasury Secretary Timothy Geithner have traded conflicting, misleading and false statements in recent days on the president's deficit-reduction plan" (FactCheck.org, "Dueling Fiscal Cliff Deceptions," www.factcheck.org/2012/12/dueling-fiscal-cliff-deceptions/). Repeated interactions in private meetings among opposing parties or stakeholders have never been a feature of the American political economy because collective bargaining is both limited and largely focused on economic rather than political issues (Gottschalk 2000). The opportunities for exchange among political parties have

diminished significantly with the recent ideological polarization of Congress. U.S. Congress has also had mixed success with penalty defaults, perhaps because politics trumps substantive goals. It would be difficult to argue, for example, that across-the-board cuts in many programs in the U.S. “sequester” of March 2013 derived from careful public policy. But that sequester was designed explicitly to provide an unacceptable penalty that would force negotiation.

Rules of Collective Engagement and Negotiating Agreements in International Relations

In chapter 7, Odell and Tingley suggest that when a zone of potential agreement exists, the same procedural arrangements that facilitate domestic political agreements in European countries also contribute to successful deals in international negotiations. Of course, raw power, conflicting interests, and zero-sum territorial disputes motivate many international conflicts, and the decision to negotiate is neither wise nor even moral when the other side has ambitions for humiliation or annihilation. No one believes that Roosevelt and Churchill could have negotiated a win-win deal with Stalin at Yalta if they had had better negotiation skills. But in cases that have the potential for mutual gain and realistic grounds for trust, rules of engagement may help political actors achieve gains that exceed their anticipation rewards from unilateral action.

International settings, however, often magnify the problems of negotiation myopia because it is harder to take the perspective of others outside one’s own culture. As we move beyond our own hearths, tribes, and nation-states, our capacities for understanding are increasingly strained by cultural and linguistic misunderstandings. Thus, when Americans and Japanese engage in cross-cultural negotiations, they obtain fewer joint gains than when members of either country negotiate with their compatriots (Brett and Okumura 1998).

Problems of long-term uncertainty and credible commitments related to time myopia also become more pressing in international affairs, where no supranational world-governing body can make assurances that today’s promises will be honored by tomorrow’s political elites. Deals that satisfy a broad scope of interests may be more difficult to achieve when the collective identity of community or nation-state is

transcended. In these cases, actors often are inclined to view choices in terms of minimizing their losses rather than maximizing their gains. Yet the rules of engagement that we discuss in this book (incorporating the use of technical expertise, repeated interactions, private meetings, and penalty defaults) may facilitate negotiated settlements even in the more difficult terrain of international relations. First, a reliance on *nonpartisan technical expertise* is often helpful in international settings, particularly in framing the issues at the problem diagnosis stage. In some situations, international actors have developed shared perspectives after outside experts—perceived by all to be nonpartisan and unbiased—offer insights into multifaceted problems. The use of an external third-party mediator (for example, the United Nations) or a single negotiating text also helps deemphasize the purely political considerations in a conflict. For example, the use of nonpartisan technical expertise was immensely important in developing the Law of the Sea Convention, which created rules for regulating the mining of critical metals in the deep ocean floor. Both first and third world countries were split over the rights to seabed resources and the issue of private companies' present and future payments for the use of this common heritage. The impasse was overcome by a computer model developed by scientists at the Massachusetts Institute of Technology, which offered a value-free vehicle for resolving exceedingly complicated questions in the payment scheme (Antrim and Sebenius 1992).

Second, *repeated interactions* facilitate negotiated settlements in international relations. Establishing a platform for negotiation is vital to negotiating success among international units because this sets opportunities for repeated interactions that build trust and shared understandings among diverse interests. These forums work well with efforts to balance interests and issues with contrasting distributional effects so that participants with diverse interests might have available to them a large pool of issues on which to compromise. Informal meetings with no official records allow exploratory discussions to determine whether a zone of agreement exists and possibly to develop the broad outlines of a settlement. Third, deadlines and penalty defaults are also important for forcing action in international agreements because negotiators tend to withhold concessions until the last possible moment.

Institutions and Rules of Collective Political Engagement: U.S. Congress Revisited

Political negotiations in other institutional settings shed light on the special problems of political agreement within the American Congress. The United States differs from the two dominant modes of rule found in other countries. With multiple veto points, it lacks the institutional motivations and capacities to exercise majoritarian rule, as in the classic Westminster system. With a severely polarized party system and weak interest groups, it has neither the structural political incentives nor the societal capacities to adopt the consensual governing style found in the proportional parliamentary systems of northern Europe. Negotiation certainly cannot offer a ubiquitous palliative to the deep wells of political conflict caused by American institutions, and the rules of engagement that inspire negotiation elsewhere may even have perverse effects. Moreover, an environment of austerity may well reinforce a mentality of zero-sum competition over shrinking resources.

The structure of American political institutions requires, but discourages, deliberative negotiation. Power sharing among branches of government and the supermajorities needed to overcome the presidential veto, along with Senate filibuster, make it more difficult for a single party “to form a government” and complicate the exercise of majoritarian rule found elsewhere in Westminster settings. That the branches are so frequently controlled by different parties further complicates the attribution of blame that elsewhere inspires compromise (see chapter 2 of this volume; McCarty, Poole, and Rosenthal 2006).

Incentives for negotiation are also shaped by the structure of party competition. Two-party systems produce fewer incentives for negotiation than proportional multiparty systems because each party seeks an electoral majority and neither has an incentive to compromise to create a governing coalition. Moreover, the relationship between political representatives and their constituencies is more attenuated in the United States than it is in Europe. Politics is always a two-level game; however, European programmatic parties have fairly stable and homogeneous constituencies that largely ascribe to the parties’ broad ideological views on key questions of governance: the role of government, the nature of social problems, and the prescriptions for economic growth. In contrast, the two major parties in the United

States are umbrella organizations, with often-conflicting memberships, organized around ambiguous policy platforms, and motivated both to compete for the illusive median voter and satisfy the narrow policy goals of core funders. Consequently, the parties in the United States can seldom claim a clear-cut mandate for action, as Newt Gingrich discovered in 1992 when he unsuccessfully sought to implement his “Contract with America” (Downs [1957] 2001; Page and Jacobs 2009). Individual legislators must defend their policy positions to their constituents, even while party leaders seek to gratify key groups in the party coalition and to preserve the party brand.

Campaign financing also creates disincentives for integrative negotiations. Political campaigns are longer and far more costly in the United States than in most other advanced countries. According to the Campaign Finance Institute, the cost of winning a House seat was \$1.5 million in 2010, a 200 percent increase in real dollars from 1984 (Campaign Finance Institute, www.cfinst.org/data/pdf/VitalStats_t1.pdf). Campaign spending has increased in many countries with television advertising, but elections in the United States are particularly costly. For example, total spending on U.S. national elections topped \$6 billion in 2012, compared with \$91 million in 2010 in the United Kingdom (CNN, “International Campaign Finance: How do Countries Compare?,” www.cnn.com/2012/01/24/world/global-campaign-finance/).

In the “old days,” the structure of political action committee (PAC) financing encouraged the quid pro quo exchange of concessions associated with distributive bargaining; before the rise of strongly polarized parties, concessions to important PAC constituents were often a medium of exchange in striking deals. Unlike individual contributors, corporate and interest group PACs have rather narrowly focused policy goals that mainly pertain to their industrial interests or issue areas. PAC contributors are largely motivated to secure access to legislators rather than to influence broad ideological choices. Yet individual campaign contributions have increased from less than half to almost three fourths of the total campaign pool, and individual contributors and super PACs (also on the rise) are more ideologically motivated than their corporate counterparts and less likely to favor compromise (see chapter 2 of this volume; McCarty, Poole, and Rosenthal 2006).

A tremendous upswing in party polarization, associated with this rise of individual campaign contributors, has diminished opportuni-

ties for bipartisan cooperation on both distributive and integrative negotiations, as Barber and McCarty vividly describe in chapter 2. Partisan differences in roll-call voting have increased dramatically since 1980, as have differences on policy issues among the elites in the two parties. The move of Southern Democrats into the Republican Party prompted some of this change; however, northern parties also became more ideologically consistent, at least at the elite level. Party polarization reflects the growing impact on party platforms of ideologically driven individual donors and specific interests and, more broadly, rising economic inequality. More polarized parties and elites are not likely to want to negotiate.

The growing strength and structural changes in American parties have further diminished opportunities for political bargains, as Binder and Lee show in chapter 3. Bargains were easier before the rise of strong, more ideological, disciplined national parties in the 1990s because earlier legislators were largely free agents. They could engage in distributive deal making to secure special concessions for their home constituencies, and “Christmas Tree bills” often contained “baubles” for swing voters. Party polarization and party discipline reduce the number of special concessions to individual voters and make these kinds of distributive bargains more difficult to attain. Party leaders now have greater capacities to protect their political brands, and the ideological polarization of the parties has increased the political threshold for entering into negotiation. It is true, as Binder and Lee point out, that bipartisanship is easier when there are clear majority and minority parties because the members of the minority need to make deals with the majority to get action on their projects and favors for their constituents. Moreover, when both sides recognize a mandate for action, strong leadership can increase the potential for interparty negotiation and integrative outcomes. In recent elections, however, the parties have won or lost with narrow vote margins, and the anticipation of winning the next election makes it strategically rational for the minority leadership to organize to block the policy ambitions of the majority party.

The U.S. configuration of organized interests further constricts the likelihood for integrative negotiations. Success in negotiating political agreements is greatest when politicians perceive a mandate for legislative action; however, in a pluralist system, interest groups

are fragmented and seldom speak with one voice. Certainly, interest groups sometimes form electoral and policy coalitions to demonstrate their broad support for a candidate or issue, and these may have a significant impact on electoral and policy outcomes (Box-Steffensmeier, Christenson, and Hitt 2013; Kingdon 1984; Schlozman and Tierney 1986). Yet the organizational structure and rules of American trade associations make it difficult for employers and workers to pursue their self-defined, long-term collective goals. Majorities of business managers in the United States, for example, have been shown to support many governmental social and economic policies, but their organizations are too weak to support these initiatives or to issue a clear mandate for legislative action. Even the big umbrella business associations—for example, the Chamber of Commerce, the National Association of Manufacturers (NAM), and the Business Roundtable—fail to articulate broad policy positions when a majority of their members support such positions. These groups compete with one another for members, which makes them act more like sales organizations than decisionmaking bodies, and they have great difficulty ignoring minority objections and taking strong stands. This lowest-common-denominator politics, or the “art of offending no one,” leaves the big-business community in a kind of political limbo, better at rejecting regulations that offend their narrow self-interests than endorsing policies that further their long-term collective concerns. Business managers recognize that their political associations fail to address their long-term concerns. In a March 1983 *Businessweek* poll, two-thirds of the executives sampled judged the representation of business views to be only poor or fair. The formal organizations that represent business received the worst evaluations from this group: only 30 percent found NAM to be highly effective; the Business Roundtable rated only 33 percent, and the Chamber of Commerce only 17 percent (Martin 2000).

Under these difficult institutional conditions for action, when do American legislators recognize a mandate to negotiate political agreements and under what conditions do integrative negotiations transpire? Binder and Lee (chapter 3) point out that the capacity is there. Congress has a broad reach across many policies—in Barney Frank’s humorous words, “the ankle bone is connected to the shoulder bone”—and the capacity to bring many issues into the deal expands the poten-

tial for integrative negotiations. The political dynamics might also change with procedural rules that introduced a higher reliance on technical expertise, repeated interactions among core stakeholders, and penalty defaults to spur action.

The rules of collective political engagement discussed here may periodically foster negotiations around broad agreements in the U.S. setting. First, negotiations seem more likely when participants go through the labor-intensive process of gathering information from a wide range of sources about the causes and dimensions of a policy problem. A formal role for nonpartisan technical expertise, as such, is more limited in the United States than in other countries; for example, the Government Accounting Office and Congressional Budget Office have a limited impact on congressional deal making today. Yet this relative scarcity of truly nonpartisan technical experts may be partially offset by a process of thorough research in which perceptions of the issues become more nuanced and complex (see chapter 3).

Second, successful political negotiations are more likely to occur when legislators are able to create forums for repeated interactions on the topic at hand, preferably far from the public eye. The rising influence of party caucuses and the declining importance of standing committees have scaled back opportunities for ongoing bipartisan negotiations on specific issues. In addition, “sunshine laws”—designed to make political processes more transparent and accountable—have diminished legislators’ capacities to engage in free-flowing dialogue in private spaces about a range of possible solutions. Congress has partially redressed these problems with the development of ad hoc bipartisan policy “gangs”; these forums for private, bipartisan dialogue allow bipartisan leaders to free-associate about possible options. Thus, the Senate bipartisan “Gang of Eight” met repeatedly during the summer of 2013 to negotiate a compromise over immigration reform. The proposed deal would have combined priorities on reform into a single package and disallowed amendments in committee or on the Senate floor.

Repeated interactions are also important for actors in the private sphere to develop shared perceptions of policy problems and solutions, which then may help build public support for congressional action. For example, Martin (2000) found in a study of sixty randomly selected Fortune 200 companies in the 1990s that engagement in group

dialogues with other social actors was a significant determinant of firms' positions on national health reform. One respondent explained: "This has been an incredible process: to go through the process of people walking through the door who are obviously going to have conflict. Doctors talking to businessmen. Twenty to forty people sitting down together and staying focused on a complex issue for a long time. One thing that made it work is that they decided to take the sacred cows and leave them at home."

Finally, deadlines and penalty defaults may bolster congressional chances for negotiated successes, in the same way that these processes bring politicians to cooperate in other countries. Politicians of both parties seem most inspired to negotiate when they fear losing the blame game. The two sides may "circle the wagons" to jointly make difficult choices for which neither wants to be held responsible (Weaver 1987). Thus, Newt Gingrich learned important lessons from the Republican-led government shutdown in the 1990s, and, thereafter, congressional Republicans cooperated closely with Bill Clinton to produce expansive policy reforms with a strategy referred to as "triangulation." Blame avoidance also motivated Senate Republicans during the efforts to pass immigration reform in 2013: some senators viewed the electoral costs of blocking immigration as too high and therefore worked with Democrats to try, although ultimately unsuccessfully, to negotiate an integrative solution (see chapter 3).

Penalty defaults that are not constructed in the public interest, however, can do considerable harm and do not always work, especially when the political costs to party negotiation are perceived as greater than the rewards for substantive deals (see chapter 3). The efforts of Tea Party Republicans in the House to prevent the implementation of Obamacare and the subsequent government shutdown in fall 2013 nearly caused a default on government debt and a major financial crisis. This episode can only be explained by legislators' perceptions that their political interests, rooted in the strongly conservative positions of their constituents, justified such a stance.

Contributions of this Volume

We hope with this scholarship to draw the attention of political actors to what the discipline of political science can tell us about nego-

tiation. We want to identify promising future avenues of research, to reflect on the weaknesses and strengths of the U.S. political system, and to offer practical lessons for the art of politics.

First, we synthesize and draw connections among investigations of negotiation by scholars in political science and across the social and behavioral sciences. Scholars are conducting parallel investigations on the micro and macro conditions for success in political negotiation; however, few prior works cross these disciplinary and subfield boundaries.

Second, we invite future research on the institutional influences on preferences and political strategies. In assessing the impacts of diverse institutional structures and rules on individuals' perceptions and incentives for negotiation, we seek to open up interpretations of political interests to the rich perception of human motivation found, for example, in the work of students of voting behavior and consumers' preferences. The institutions and rules for collective political engagement are crucial to explaining the cross-national differences in preferences held by both elites and citizens for governmental, social, and economic interventions. These institutions and rules for political engagement have impacts on governments' capacities to build coalitions of broad majorities, to negotiate social pacts, and to cope with the challenges of the postindustrial economy (Martin and Swank 2012).

Third, we invite scholars to explore the relationship between patterns of political negotiation among elites and citizens' attitudes toward government. Politics is a multilevel game, and the relationship between principals and their agents is not always clearly defined. It would be useful to have a fuller understanding of how political deal making among elites influences citizens' perceptions of public policy and the legitimacy of the state. One danger of negotiation is that it will include only the small number of people at the table, excluding those that the negotiators are mandated to represent. Another danger is that the negotiation itself will exclude important affected parties. Moreover, constituencies themselves can be myopic, asking their representative agents to "fight to the mat" for narrow gains.

Yet knowledge of the dynamics of negotiation and the success of integrative negotiations in politics may also bring citizens to believe more in the legitimacy of their governments and the efficacy of public policies. American institutions and rules contribute to a parsimonious

collective political sphere in the United States compared with some European countries. In Denmark, for example, society (*samfund*) is reified, nurtured, and protected, and the location for the “social”—that is, the public sector—commands widespread support. Genuine negotiated exchanges among our leaders in the United States may help us construct collective social identities and change our perceptions of ourselves vis-à-vis the larger society. Citizens may learn from elites that politics is not only about struggle over resources; it is also about the search for value-creating opportunities and social solidarity. Such understandings may, in the long run, bring citizens to view political discourse in more positive terms. We Americans preach cooperation and sharing to our children, but in the political sphere, we have forgotten the lessons of our childhood. As a nation, we have come to a pull-together or pull-apart moment.

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